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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

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8 UNITED STATES OF AMERICA,) 2:08-CR-00348-PMP-RJJ
9 Plaintiff,)
10 vs.) **ORDER**
11 JEFFREY THOMAS COMSTOCK,)
12 Defendant.)
13 _____)

14 Before the Court for consideration is Defendant Jeffrey Thomas
15 Comstock's Motion to Suppress (Doc. #34), filed on June 1, 2009. On January 21,
16 2010, the Honorable Robert Johnston United States Magistrate Judge, entered a
17 Report and Recommendation (Doc. #71) recommending that Defendant Comstock's
18 motion to suppress be denied. On January 29, 2010, Defendant filed an Objection
19 thereto (Doc. #76). On April 19, 2010, the Court conducted a hearing on
20 Defendant's objections.

21 On June 1, 2009, Defendant Comstock filed a Motion to Suppress Evidence
22 Seized in Traffic Stop (Doc. #34). The Court finds that the evidence adduced before
23 Magistrate Judge Johnston does not demonstrate that Defendant Comstock was
24 detained for an unreasonably prolonged period of time prior to being asked for and
25 giving consent to search the vehicle he was driving. The Court further finds that the
26 evidentiary record developed before Magistrate Johnston does not


1 show that Defendant Comstock was visibly intoxicated or under the influence of
2 drugs at the time he gave consent to search the vehicle or at the time he waived his
3 Miranda rights. The Court has conducted a de novo review of the record in this case
4 in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule IB 3-2 and determines
5 that Magistrate Johnston's Report and Recommendation should be affirmed and
6 Defendant Comstock's Objection thereto (Doc. #76) should be overruled. In
7 addition, Defendant's Motion to Suppress (Doc. #34) should be denied.

8 **IT IS THEREFORE ORDERED** that Magistrate Judge Johnston's
9 Report and Recommendation (Doc. #71) is **AFFIRMED**.

10 **IT IS FURTHER ORDERED** that Defendant Comstock's Objection to
11 Magistrate Johnston's Report and Recommendation (Doc. #76) is **OVERRULED**.

12 **IT IS FURTHER ORDERED** that Defendant Comstock's Motion to
13 Suppress Evidence Seized in Traffic Stop (Doc. #34) is **DENIED**.

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15 DATED: April 22, 2010.

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18 PHILIP M. PRO
19 United States District Judge
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